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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,482	04/05/2007	Daisuke Ihara	9369-117US T37210733MAIO	1275
570 7590 09/24/2008 PANITCH SCHWARZE BELISARIO & NADEL LLP ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			EXAMINER TRIEU, THERESA	
			ART UNIT 3748	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,482	<b>Applicant(s)</b> IHARA ET AL.	
	<b>Examiner</b> Theresa Trieu	<b>Art Unit</b> 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/21/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Receipt and entry of Applicant's Preliminary Amendment filed on April 21, 2006 is acknowledged.

Claims 3-8 have been amended. Accordingly, claims 1-8 are pending in this application.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "pressure measuring device" recited in claim 5, "measuring device" recited in claim 6, "means for measuring the power consumption of the motor" recited in claim 7 and "gas flow meter" recited in claim 8, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The disclosure is objected to because of the following informalities: Pages 3-9, "set forth in claim 1", "set forth in claim 2", "set forth in claim 3", "set forth in claim 4", "set forth in claim 5", "set forth in claim 6", "set forth in claim 7" and "set forth in claim 8" are incomplete sentences that should be deleted because they refers to claim numbers which can change in numbering and content. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase “be able to” render the claim indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Regarding claim 5, the phrase “and/or” render the claim indefinite.

***Claim Objections***

7. Claims 5-8 are objected to, in that their subject matter needs to be incorporated into the specification and the drawings.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claim 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura et al. (Miura) (Publication Number JP 2000-170680) in view of Yokota (Publication Number 09-131016).

Regarding claims 1-3, Miura discloses a rotary dry vacuum pump with a rotary rotor comprising: one or plural rotors 2a, 2b housed within a housing 1; bearings for supporting respectively shafts 15, 16 of the rotors; a suction port 92 and an exhaust port 93 respectively formed in the housing for sucking and exhausting fluid; and, a motor 8 for driving and rotating at least one of the rotors, wherein the motor includes a stator core 10, the shaft of at least one of the rotors 2a 2b and shaft 15, 16 of the rotary element 11 are fixedly secured to thereby be to drive and rotate the rotor 2a, 2b; wherein the shaft 15, 16 of the motor 8 and the shaft of the rotor 2a, 2b are formed integral with each other; wherein the motor 8 being disposed on a suction port side of the vacuum pump (see Fig. 2). However, Miura fails to disclose a partition wall mounted on an inner peripheral side of the stator core.

Yokota teaches that it is conventional in the art to utilize a partition wall 6 mounted on an inner peripheral side of the stator core 1 is fixedly secured to the housing to thereby hermetically seal an interior of the partition wall, a rotary element 7 is rotatably disposed within the partition wall 6, and a gas charge hole is provided for charging purge gas into the partition wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the partition wall, as taught by Yokota in the Miura apparatus, since the use thereof would have improved the permeating main magnetic flux.

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9. Claims 4, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Yokota as applied to claim 1 above, and further in view of Wright et al. (Wright) (Patent Number 4,983,106).

The modified Miura device discloses the invention as recited above; however, the modified Miura fails to disclose flow rate control means.

Wright teaches that it is conventional in the art to utilize wherein flow rate control means 45 is disposed on a pipe for sending the purge gas to the purge gas charge hole; a pressure measuring device 43, 44 for measuring the pressure of the interior of the partition wall and/or a pressure measuring 43, 44 device for measuring the pressure of the interior of an exhaust chamber. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the flow rate control means, as taught by Wright in the modified Miura apparatus, since the use thereof would have obtained a good flow rate/pressure characteristic in the rotary dry vacuum pump device.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Yokota as applied to claim 1 above, and further in view of Ouarve et al. (Ouarve) (Patent Number 4,883,199).

The modified Miura device discloses the invention as recited above; however, the modified Miura fails to disclose a measuring device for measuring the number of rotations of the rotary element of the motor and the rotor.

Ouarve teaches that it is conventional in the art to utilize a measuring device (see abstract) for measuring the number of rotations of the rotary element of the motor and the rotor. It would have been obvious to one having ordinary skill in the art at the time the invention was

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made, to have utilized the measuring device, as taught by Ouarve in the modified Miura apparatus, since the use thereof would have measured an exact amount of fluid dispensed through the fluid motor.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Yokota as applied to claim 1 above, and further in view of Ishizaki et al. (Ishizaki) (Patent Number 5,877,577).

The modified Miura device discloses the invention as recited above; however, the modified Miura fails to disclose means for measuring the power consumption of the motor.

Ishizaki teaches that it is conventional in the art to utilize means 92 for measuring the power consumption of the motor. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the means for measuring the power consumption of the motor, as taught by Ishizaki in the modified Miura apparatus, since the use thereof would have controlled the discharge flow rate of the rotary dry vacuum pump device.

#### ***Prior Art***

12. The IDS (PTO-1449) filed on April 21, 2006 has been considered. An initialized copy is attached hereto.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of four patents: Moody, Jr. et al. (U.S. Patent Number 3,913,346), Hayakawa et al. (U.S. Patent Number 4,797,068), Uchida et al. (U.S. Patent Number 4,993,930), and Ooyama et al. (U.S. Patent Application Publication Number 2003/0107282), each further discloses a state of the art.



### ***Conclusion***

14. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP §2163.06 II(A), MPEP §2163.06 and MPEP §714.02. The "disclosure" includes the claims, the specification and the drawings.

### ***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

/Theresa Trieu/  
Primary Examiner, Art Unit 3748